

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6234

BILL NUMBER: HB 1082

NOTE PREPARED: Apr 9, 2003

BILL AMENDED: Apr 9, 2003

SUBJECT: Methamphetamine Crimes

FIRST AUTHOR: Rep. Weinzapfel

FIRST SPONSOR: Sen. Bray

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (A) It makes the possession of certain chemical reagents or precursors with the intent to manufacture methamphetamine a Class D felony.
- (B) It prohibits the sale of chemical reagents or precursors to a methamphetamine or other controlled substance manufacturer.
- (C) It provides that a person may be charged with an offense under the controlled substances act for certain acts involving a controlled substance analog.
- (D) It requires a person convicted of certain methamphetamine offenses to provide restitution for the costs of environmental cleanup.
- (E) It makes it a Class A misdemeanor for a person to take a person less than 18 years of age or an endangered adult into a place that is being used to unlawfully possess, manufacture, store, sell, or deliver drugs or controlled substances.
- (F) It provides a defense to a charge of possession of a chemical reagent or precursor with intent to distribute for a physician, pharmacist, and certain other persons required to possess a reagent or precursor in the regular course of business.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Provision A – Methamphetamine Raw Ingredients:* Currently, a person who possesses two or more chemical reagents or precursors or anhydrous ammonia with intent to manufacture methamphetamine commits a Class D felony. Under this provision, a person possessing 15 grams of one or more of the following items or anhydrous ammonia with intent to manufacture would be guilty of a Class D felony.

- Ephedrine.
- Pseudoephedrine.
- Phenylpropanolamine.
- The salts, isomers, and salts of isomers of a substance identified in ephedrine, pseudoephedrine or phenylpropanolamine.
- Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

The offense would be a Class C felony if the person also possessed a firearm or being within 1,000 feet of a school, public park, housing complex, or youth center. In 2001, there were 11 offenders committed to state correctional facilities for the Class D felony. No data is available to indicate how many more offenders may be convicted if the number of chemical reagents or precursors possessed changes as proposed.

Additionally, this bill creates a Class D felony for selling chemical precursors to another person knowing that the person does not intend to use it for agricultural, scientific, or law enforcement purposes.

The length of sentences for Class C and D felonies is shown in the table below.

Provision C -- Controlled Substance Analog: For this bill, a controlled substance analog is a substance whose chemical structure is substantially similar to that of a Schedule I or II controlled substance and has a similar effect on the central nervous system as a Schedule I or II controlled substance. A person who either possesses or distributes an analog could be prosecuted as if the person possessed or distributed a Schedule I or II controlled substance. Depending on the circumstance, the following acts involving either a Schedule I or II controlled substance are punishable as either Class A or B felonies:

- knowingly or intentionally manufacturing, financing the manufacture of, delivering or financing the delivery of these analogs or
- possessing with the intention to manufacture, financing the manufacture of, delivery or financing the delivery of these analogs.

The length of sentences for Class A and B felonies is shown in the table below.

Provision E – Minors and Endangered Adults at Drug Sites: There are no data available to indicate how many offenders may be convicted of this offense. A first conviction would be a Class A misdemeanor, and a second or subsequent offense would be a Class D felony.

Length of Sentences By Felony Class			
Felony Class	Minimum	Presumptive	Maximum
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be

housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues: (Revised) *Provisions A, C and E:* The following table shows the potential criminal fines by level of offense.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Offense	Potential Criminal Fine
Class A misdemeanor	\$5,000
Class D felony	\$10,000
Class C felony	\$10,000
Class B felony	\$10,000
Class A felony	\$10,000

Explanation of Local Expenditures: (Revised) *Provision C -- Controlled Substance Analog:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Provision D -- Restitution for the Costs of Environmental Cleanup: Under current law, courts may only order restitution for environmental cleanup in cases involving the manufacturing or possession of a substance represented to be a controlled substance. This provision would expand this option for the courts for any case involving the manufacture of methamphetamine. Revenue from the restitution order would go to the local law enforcement agency that performed the cleanup.

Provision E -- Minors and Endangered Adults at Drug Sites: A Class A misdemeanor is punishable by up to one year in jail, and Class D felony offenders may be detained in county jails prior to their court hearing.

Explanation of Local Revenues: (Revised) *Provision C -- Controlled Substance Analog:* Offenders sentenced to probation as a misdemeanant may pay an initial user fee of not more than \$50 and a maximum \$10 monthly probation user's fee.

See *Explanation of State Revenues*. The court fee for both misdemeanors and felonies is \$120.

If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement

the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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